IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.2960 OF 2004

Raees Islam Qureshi, .. Applicant

Vs

The State of Maharashtra, .. Respondent.

Ms. Anjali Patil Contractor, for the applicant.

Mr R.Y.Mirza, APP for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 23rd AUGUST, 2004.

PC:

1. Heard the learned counsel for the parties.

2. The applicant has approached this Court for being released on bail in C.R.No.93/2002 registered at Bandra Police Station under sections 454, 457, 380, 460, 302 read with 120(b) of Indian Penal Code. The occurrence in the instant case took place on 22.3.2002 at about 20.15 hours in which the applicant and one another allegedly committed murder of Mr and Mrs Baig in their house. Both the deceased were doctors by profession.

3. The applicant had been arrested in connection with some other crime bearing C.R.No.89 of 2002 registered at Khar Police Station under sections 457 and 380 of Indian Penal Code. In the course of interrogation, in the said

crime, the applicant confessed about his involvement and the involvement of co-accused Vijay in committing the murder of Mr and Mrs Baig. In pursuance of the information given by the applicant, co-accused Vijay also came to be arrested. During investigation, it revealed that the applicant and co-accused Vijay conspired to commit the alleged offence. As per their plan, Vijay entered the house of the deceased when, the present applicant waited outside keeping watch in the compound of the society. The occurrence was witnessed by Ibrahim Hanif Baig, four years old son of Mr & Mrs Baig. He identified co-accused Vijay as the assailant. According to the prosecution, Mr and Mrs Baig were assaulted by co-accused Vijay on their head with spade. While committing murder of Mrs Baig, it is alleged that the accused took out her all clothes and that her dead body was found naked.This all happened in front of their four years old son, Ibrahim. The stolen property recovered by the police was worth Rs.7,81,460/-. Some stolen articles were recovered at the instance of the present applicant. Those articles were identified by the complainant as that of the deceased. Considering the manner in which the present applicant and co-accused Vijay conspired to commit the alleged offence and the material produced before me, it would not be possible to accept the submission of Ms Patil, learned counsel for

the applicant, that except the recovery, there is absolutely no material to connect the applicant with the occurrence. The prosecution has placed sufficient material on record as reflected in the reply affidavit which, in my opinion, shows the complicity of the applicant. In any event, the applicant does not deserve a discretionary relief under section 439 of Cr.P.C. Moreover, the applicant does not seem to be a permanent resident of Mumbai. In the circumstances, this is not a fit case to enlarge him on bail. The application is rejected.

. While rejecting the application, I shall not be understood to have expressed any opinion on merits of the case. The Sessions Court shall decide the case uninfluenced by the observations made in this order.

(D.B.BHOSALE, J.)